IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3745 OF 2004

Vinod S. Khare ... Petitioner

versus

State of Maharashtra ... Respondent

...

Mr. S.V. Marwadi and Miss G.R. Yadhav, for the Petitioner.

Mr. A.S. Gadkari, for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

14th September 2004

P.C.:

. Heard Counsel for the parties. The evidence as against the applicant as a conspirator, is founded on two statements of witnesses and telephone calls received on Mobile No. 9869321505 and 2234353466 respectively on the relevant date. The statements of two witnesses have been recorded much later than the incident. Besides the statements ascribing the presence of the applicant during the discussion

that the deceased should be eliminated, no other incriminating evidence has been found. Insofar as the recovery of mobile phone from the applicant is concerned, it is not disputed that no sim card was recovered from the applicant. The mobile phone, which is stated to have been used by the applicant, is certified by the concerned telephone agency to be belonging to Mr. Indrajit Kargatia and not the applicant. Be that as it may, investigation is complete. Charge sheet has also been filed. The presence of the applicant can be ensured during the trial if the applicant is released on bail on strict conditions. Accordingly, this application is allowed on the following terms:

. a) The applicant is accordingly released on bail in connection with Crime No. 406 of 2003 in Sessions Case No. 289/2004 on executing personal bond in the sum of Rs. 1 lakh with one surety in the like amount.

. b) The applicant shall not enter the District of Greater Bombay except for attending the Court proceedings or as and when required by the concerned Investigating Officer.

. c) The applicant shall surrender his Passport, if any. In case the applicant is not possessing any Passport, he shall file affidavit stating that fact within one week from the date of release.

. d) The applicant shall not tamper with the prosecution evidence in any manner whatsoever and shall regularly attend all the dates before the trial Court unless specifically exempted by the trial Court. If the Court is of the opinion that the Applicant is delaying the trial, that can be a ground for cancellation of bail.

. e) The applicant shall disclose his place of residence during the trial to the concerned Police Station and shall report to the local Police Station where he would be residing once in a month on Saturday between 11 a.m. and 5 p.m.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)